IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 14796 of 2007
DATE OF DECISION: 25.9.2007

M/s K.H. Oswal Knitwears and another …Petitioners

Versus

State Bank of Patiala and another …Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. I.S. Ratta, Advocate,
for the petitioners.

M.M. KUMAR, J.

The prayer made by the petitioners in this petition filed under Article 226 of the Constitution is for quashing second and third demand notices dated 1.11.2004 and 12.7.2007 (P-3 and P-6 respectively), which have been issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act'). Still further a prayer has been made for issuance of a writ of prohibition restraining the respondent-Bank from taking any measure under Section 13(4) of the Act on the basis of first demand notice dated 17.1.2003, issued under Section 13(2) of the Act (P-1), whereby the petitioners were asked to pay Rs. 6,79,377/- within 60 days of issuance of notice. The petitioners have claimed that the respondent bank is likely to proceed under Section 13(4) of the Act, which, in fact, has become time barred by virtue of provisions made under Section 36 of the Act.

Having heard learned counsel at some length, we are of the view that no cause of action has arisen to the petitioners to approach this Court because after issuance of notices under Section 13(2) of the Act, the petitioners were entitled to file objections under Section 13(3A) of the Act. Thereafter, the respondent bank was under obligation to dispose of the objections within one week from the receipt thereof. Even the disposal of the objections does not provide any cause of action to the petitioners as has been clarified by Section 13(3A). It is only when the proceedings under Section 13(4) are initiated that the petitioners become entitled to challenge the same under Section 17 of the Act before the Debts Recovery Tribunal. The Act has made elaborate provision for appeal etc. by providing all the remedies. The petitioners cannot bypass those remedies by approaching straightway to this Court under Article 226 of the Constitution. The instant writ petition seems to be a complete misuse of the process of law. We have already dismissed a similar petition in the case of **M/s Brothers Polypack and others v. State Bank of India (C.W.P. No. 14358 of 2007, decided on 17.9.2007)**.

Therefore, we do not find any merit in the petition and the same is dismissed.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

September 25, 2007
Pkapoor